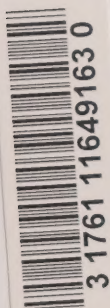


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Transportation Safety Board
of Canada



Bureau de la sécurité des transports
du Canada



ANNUAL REPORT TO PARLIAMENT ON THE APPLICATION OF THE ACCESS TO INFORMATION ACT

01 APRIL 2009 TO 31 MARCH 2010

Canada

Transportation Safety Board
of Canada



Bureau de la sécurité des transports
du Canada

Chair

Présidente

Place du Centre
200 Promenade du Portage
4th Floor
Gatineau, Quebec
K1A 1K8

The Honourable Josée Verner
President of the Queen's Privy Council for Canada
House of Commons
Ottawa, Ontario
K1A 0A6

Honourable Minister:

In accordance with section 72 of the *Access to Information Act*, the Transportation Safety Board of Canada is pleased to submit to Parliament this report on its activities relating to the application of the Act for the period 01 April 2009 to 31 March 2010.

Sincerely,

A handwritten signature in black ink that reads "Wendy A. Tadros".

Wendy A. Tadros

Canada

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1.0 Introduction

Pursuant to section 72 of the *Access to Information Act*, the Transportation Safety Board of Canada (TSB) is pleased to table in Parliament this report on its activities relating to the application of the Act. The report covers the period from 01 April 2009 to 31 March 2010.

The purpose of the *Access to Information Act* is to provide a right of access to information in records under the control of government institutions such as the TSB.

The *Canadian Transportation Accident Investigation and Safety Board Act* provides the legal framework that governs TSB activities. Our mandate is to advance transportation safety in the marine, pipeline, rail and air modes of transportation by:

- conducting independent investigations, including public inquiries when necessary, into selected transportation occurrences in order to make findings as to their causes and contributing factors;
- identifying safety deficiencies, as evidenced by transportation occurrences;
- making recommendations designed to eliminate or reduce any such safety deficiencies; and
- reporting publicly on our investigations and on the findings in relation thereto.

More information on the TSB is available at www.bst-tsb.gc.ca.

The TSB's administration of its Access to Information and Privacy (ATIP) activities is in accordance with the government's stated principles that government information should be available to the public with only specific and limited exceptions. Furthermore, the TSB treats personal information in compliance with the code of fair information practice expressed in the *Privacy Act*.

The majority of access to information requests made to the TSB pertain to transportation occurrences. Such requests present many challenges to the TSB ATIP Office. In many cases, for example, requests are for a copy of the complete investigation file. Depending on the nature and scope of the investigation, there may be many thousands of often complex records in a variety of media. In addition, the status of the investigation itself may affect the availability of records – for example, early on in the investigation when investigators are still in the field collecting information. As well, the status of the investigation can also affect when certain information may be released under the Act. As considerable expertise is required in the processing of requests, the TSB ATIP function is organized so that ATIP analysts are responsible for reviewing and severing all records. This requires that the analysts establish and maintain good working relations with the office of primary interest (OPI) for each request. On an ongoing basis, it also requires that the analysts develop and maintain a strong knowledge of not only the provisions of the Act but also TSB operations.

The ATIP Office operates within the Information Management (IM) Division of Corporate Services. This ensures effective integration of ATIP requirements into IM planning, policy development, records management systems and practices, and training and awareness activities. The ATIP Office deals with both formal requests made pursuant to the Act and informal requests, and provides functional advice and guidance to managers and employees concerning the release of information and protection of privacy.

2.0 *Delegation of Authority*

As required by the legislation, a delegation of authority is in place. For the purposes of the *Access to Information Act*, the “head of the institution” as defined in section 3 of the Act is the Chair. The Chief Operating Officer, the Director General, Corporate Services, and the Manager, Information Management Division have been delegated powers by the Chair deemed appropriate for the effective administration of the Act and to ensure that the TSB meets all its obligations fairly and consistently.

A copy of the Delegation Order is attached as Appendix A.

3.0 *Formal Requests*

3.1 *Disposition of Requests*

Fifty-seven (57) new requests were received under the *Access to Information Act* in 2009-2010 and fifteen (15) requests were brought forward from the previous fiscal year, for a total of seventy-two (72) active requests. Of these, forty-nine (49) requests were completed during the current reporting period, and twenty-three (23) were carried forward to the next fiscal year.

Of the forty-nine (49) requests completed during the current reporting period, records were fully disclosed to seven (7) applicants. Records pertaining to thirty (30) requests were released with some portions exempted under sections 16(1)(c)(iii), 19(1), 20(1)(a), (b), (c) and (d), 21(1)(a), and section 24 of the Act. Records did not exist for five (5) requests, three (3) were transferred to other federal government institutions, one (1) was excluded, two (2) were fully exempted from disclosure and one (1) was abandoned by the applicant.

3.2 *Clients*

The majority of new requests, forty-one (41), came from business/legal firms representing clients affected by or involved in transportation occurrences. Five (5) requests were received from media sources. Nine (9) requests were received from members of the public and two (2) from organizations.

3.3 *Processing of Requests*

The number of new requests received by the ATIP Office in 2009–2010 increased by five (5) compared to the number received in 2008–2009. The number of completed requests decreased by sixteen (16) compared with 2008–2009.

The ATIP Office makes every possible effort to process requests within the 30-day time limit as required by the legislation. However, many of the requests received by the TSB pertain to third-party information, which requires consultation with the third parties before the information can be released.

Of the forty-nine (49) requests processed during the reporting period, thirty (30) were completed within the 30-day limit, sixteen (16) were completed in 31 to 120 days, and three (3) took longer than 121 days to complete. The average time taken to process a request during the 2009–2010 reporting period was 44.2 calendar days, compared with last year's average of 50.8 calendar days. Factors affecting average processing time include the amount and type of requests received, information requiring review, and consultations required during the reporting period.

During this period, the ATIP Office was involved in the search, preparation and review of 32,944 pages of information and the reproduction and release of 20,981 pages of information, including reprints of photographs, videotapes and CD-ROM disks containing photographs. Last year, 48,253 pages were reviewed and 24,531 pages were released.

4.0 *Fees and Costs*

In accordance with the TSB ATIP fee policy implemented on 01 January 2001, the TSB collected \$165.00 in fees during 2009–2010. The TSB maintains the right to waive fees, and the decision to reduce or waive fees is made on a case-by-case basis according to the criteria outlined in its ATIP fees policy. Like most departments, the TSB waives the requirement to pay fees, other than the application fee, if the amount payable is less than \$25.00.

During 2009–2010, the ATIP Office incurred an estimated \$174,607 in costs to administer the *Access to Information Act*. These costs do not include the resources expended by other areas of the TSB to meet the requirements of the Act.

5.0 *Other Requests*

The ATIP Office received twenty-seven (27) consultation requests from other departments involving TSB records in 2009–2010, the same number as last year.

One hundred and sixty-one (161) informal requests were received during the reporting period, compared with one hundred and fifty-nine (159) last year. The ATIP Office reviewed 74,554 pages of information and released 67,628 pages to requesters, compared with 12,916 pages released last year. These figures do not include other information requests responded to directly by the Communications Branch, the Macro-Analysis group in the Operational Services Branch, and other areas of the TSB at Head Office and in the regional offices.

In addition, many publications – such as investigation reports, safety studies, statistical reports, communiqués, investigation updates, and annual reports, including ATIP reports – are available on the TSB website.

6.0 *Complaints and Investigations*

One outstanding complaint from previous reporting periods was filed with the Office of the Information Commissioner (OIC) during the 2003–2004 reporting period. It concerned the TSB's decision to withhold all records pursuant to subsections 16(1) and 19(1) and section 24 of the *Access to Information Act*, in response to a request for copies of the reports made to the TSB Confidential Reporting System, Securitas, regarding air and rail occurrences for the period 01 September 2002 to 01 August 2003. In an attempt to resolve the complaint, the TSB had created and provided the requester with brief summaries of each report in the 2003–2004 reporting period. At the request of the OIC, the TSB provided a letter of representations on its position to the OIC in 2005–2006. The TSB met with the OIC investigator to discuss the complaint on 10 July 2008, but a response from the OIC was still outstanding at the end of 2008–2009.

On 28 April 2009, the ATIP Office followed up with the OIC to determine the status of its investigation. This led to a meeting of TSB and OIC legal representatives. Ultimately, it was agreed that the TSB's Senior ATIP Analyst would conduct a joint review of the file with the OIC investigator with the objective to finally resolve this long-outstanding complaint. The review was completed in November 2009, and the TSB and the OIC have agreed that the resulting severed records would be released to the complainant.

Four new complaints were received during the current reporting period:

- The first pertained to the refusal of access to records related to an ongoing aviation occurrence investigation; these records were exempted under section 16(1)(c)(iii) of the *Access to Information Act*. In its response to the requester, the TSB had indicated that the information would be provided as soon as the investigation report was released to the public. The TSB met with the OIC in December 2009, at which time the OIC asked for further information regarding its application of section 16(1)(c)(iii).

On 26 March 2010, the TSB received notice from the OIC that, in accordance with section 35 of the Act, a letter would be sent asking for the TSB's formal representations on its application of this exemption. The OIC letter had not been received by the end of the current reporting period.

- For the second complaint, the complainant alleged that more records should exist than those provided in response to the request. The complainant also alleged refusal of access to records which were exempted under section 19(1) of the Act. The OIC ruled the complaint to be unsubstantiated.
- The third complaint pertained to a request for the complete file of an ongoing railway occurrence investigation, and the alleged refusal of access to records which were exempted under the Act. The OIC investigation remained under way at the end of the current reporting period.
- For the fourth complaint, the complainant alleged that more records should exist than those provided in response to the request. The ATIP Office provided a copy of the access to information and processing file to the OIC. On 22 March 2010, the TSB received a letter from the OIC indicating that the complaint had been discontinued.

7.0 *Appeals to the Courts*

There were no appeals before the Courts in the current reporting period.

8.0 *Training and Education*

Given the responsibilities and knowledge requirements of the TSB ATIP Office, there is a long learning curve for its staff. Continuous on-the-job training is provided to ATIP staff to ensure sound and current knowledge of both ATIP requirements and procedures and TSB operations.

In terms of external training activities, ATIP staff attended the annual Canadian Access and Privacy Association workshop, as well as various workshops organized by the Treasury Board Secretariat throughout the fiscal year. These workshops provided ATIP staff with valuable information on trends and best practices within the ATIP community, updates on recent complaints and court cases, and tools to help improve service standards within the field.

During the reporting period, the ATIP Office provided customized training to employees of the Operational Services Branch at the TSB Laboratory. Approximately 20 TSB employees participated in the training session.

In addition, the TSB has put in place an orientation program for new employees. The ATIP Office prepared and presented ATIP training in the pilot English and French sessions, and subsequently provided training in one English and one French session to approximately thirty employees. The ATIP Office will continue to provide training in future orientation sessions as part of the ongoing program.

9.0 *Policies, Guidelines and Procedures*

No new or revised access to information related policies, guidelines or procedures were implemented in the TSB during the reporting period.

10.0 *Statistics Required by Treasury Board*

The statistics required by the Treasury Board Secretariat are found in Appendix B.

Appendix A – Delegation Order

Transportation Safety Board
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DESIGNATION ORDERS

Access to Information Act

The Chair of the Transportation Safety Board of Canada, pursuant to Section 73 of the *Access to Information Act*, hereby designates the persons holding the positions of Chief Operating Officer, Director General, Corporate Services and Manager, Information Management Division, Corporate Services, or the persons occupying on an acting basis those positions, to exercise the powers and perform the duties and functions of the Chair as the head of a government institution under the *Act*.

A handwritten signature in cursive script that reads "Wendy A. Tadros".

Wendy A. Tadros
Chair

Date: JAN 25 2010

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Appendix B – Statistical Report

REPORT ON THE ACCESS TO INFORMATION ACT RAPPORT CONCERNANT LA LOI SUR L'ACCÈS À L'INFORMATION

Institution		TRANSPORTATION SAFETY BOARD OF CANADA BUREAU DE LA SÉCURITÉ DES TRANSPORTS		Reporting period Période visée par le rapport 4/1/2009 to/à 3/31/2010	
Source	Media Médias	Academia Secteur universitaire	Business Secteur commercial	Organization Organisme	Public
	5	0	41	2	9
I Requests under the Access to Information Act Demandes en vertu de la Loi sur l'accès à l'information					
Received during reporting period Reçues pendant la période visée par le rapport	57	II Disposition of requests completed Disposition à l'égard des demandes traitées			
Outstanding from previous period En suspens depuis la période antérieure	15	1. All disclosed Communication totale	7	6. Unable to process Traitement impossible	5
TOTAL	72	2. Disclosed in part Communication partielle	30	7. Abandoned by applicant Abandon de la demande	1
Completed during reporting period Traitées pendant la période visée par le rapport	49	3. Nothing disclosed (excluded) Aucune communication (exclusion)	1	8. Treated informally Traitement non officiel	0
Carried forward Reportées	23	4. Nothing disclosed (exempt) Aucune communication (exemption)	2	TOTAL	49
		5. Transferred Transmission	3		
III Exemptions invoked Exemptions invoquées					
S. Art. 13(1)(a)	0	S. Art. 16(1)(a)	1	S. Art. 21(1)(a)	1
(b)	0	(b)	0	(b)	0
(c)	0	(c)	10	(c)	0
(d)	0	(d)	0	(d)	0
S. Art. 14	0	S. Art. 16(2)	0	S. Art. 22	0
S. 15(1) International rel. Art. Relations intern.	0	S. Art. 16(3)	0	S. Art. 23	0
Defence Défense	0	S. Art. 17	0	S. Art. 24	1
Subversive activities Activités subversives	0	S. Art. 18(a)	0	S. Art. 26	0
IV Exclusions cited Exclusions citées					
S. Art. 69(a)	1	S. Art. 69(1)(c)	0	V Completion time Délai de traitement	
(b)	0	(d)	0	30 days or under 30 jours ou moins	30
(c)	0	(e)	0	31 to 60 days De 31 à 60 jours	10
S. Art. 69(1)(a)	0	(f)	0	61 to 120 days De 61 à 120 jours	6
(b)	0	(g)	0	121 days or over 121 jours et plus	3
VI Extensions Prorogations des délais					
	30 days or under 30 jours ou moins	31 days or over 31 jours ou plus	VII Translations Traductions		
Searching Recherche	1	3	Translations requested Traductions demandées	0	Copies given Copies de l'original
Consultation	0	0	Translations prepared De l'anglais au français	0	Examination Examen de l'original
Third party Tiers	1	2	Traductions French to English Du français à l'anglais	0	Copies and examination Copies et examen
TOTAL	2	5			38
IX Fees Frais					
	Net fees collected Frais nets perçus		X Costs Coûts		
Application fees Frais de la demande	\$165.00	Preparation Préparation	\$0.00	Financial (all reasons) Financiers (raisons)	(\$000)
Reproduction	\$0.00	Computer processing Traitement informatique	\$0.00	Salary Traitement	170,417.0
Searching Recherche	\$0.00	TOTAL	\$165.00	Administration (O and M) Administration (fonctionnement et maintien)	4,190.0
Fees waived Dispense de frais		No. of times Nombre de fois	\$	TOTAL	174,607.0
\$25.00 or under 25 \$ ou moins		2	\$10.00	Person year utilization (all reasons) Années-personnes utilisées (raisons)	
Over \$25.00 De plus de 25 \$		0	\$0.00	Person year (decimal format) Années-personnes (nombre décimal)	2.90